FARAD CONTINUATION SHEET.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION No.5196 OF 2005.

Office Notes,Office Memorandum of Coram apperance,Court's Orders & Directions and Registrar's Order.	: Court or Judge's Order.

Mr.D.S.Sawant i/b. Mr.M.M.Jadhav,Advocate for the Petitioners.
Mr.P.S.Dani,Advocate for the Respondent no.1.

CORAM:R.M.S.KHANDEPARKAR,J.
DATED:24TH NOVEMBER, 2006.

1. Heard.

2. At the out set, the learned Advocate for the respondent raises a preliminary objection regarding the laches on the part of the petitioners in approaching the Court and that the same have not been satisfactorily explained. It is the contention on behalf of the petitioners that all the case papers for the purpose of filing the petition were handed over with their Advocate, one Mr. S.R. Pande. However, on account of communication the petitioners could not contact the Advocate for long time and was under impression that the petition

had already been filed. It is only recently the petitioners came to know that the petition was not filed and thereafter the petitioners contacted another Advocate and filed the petition. Apart from the fact that the so called explanation given for laches for the period of five years can hardly be said to be satisfactory explanation, the fact remains that the eviction proceedings were filed on the ground of bona-fide need of the premises. If it was really a bona-fide need of the petitioners, one fails to understand as to how the petitioners remained silent without enquiring about the proceedings for the period of five years. Considering the same also there is absolutely no explanation for the laches on the part of the petitioners in approaching the Court. Besides the question of bona-fide need depends upon the circumstances prevailing at the time of filing of the application for eviction on the said ground, and therefore, dismissal of the proceeding earlier filed would not disentitle the landlord

to initiate fresh proceeding in case the landlord is able to make out a case of new cause of action in relation to such need. In any case, in the absence of satisfactory explanation for laches for the period of five years on the part of the petitioners in approaching the Court, I am not inclined to entertain the petition. Hence the petition is rejected.

[R.M.S.KHANDEPARKAR,J.]